

02-17-05

Docket No. 189.11

①  
#6

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

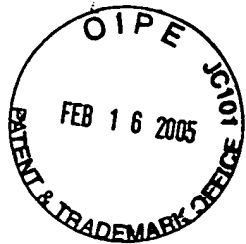
In re the application of:

Douglas I. Lovison

Serial No.: 09/877,577

Filed: June 7, 2001

For: Hand Grip Exercise System



Group Art Unit: 3764

Examiner: Victor Kenny Hwang

Carlsbad, California

PETITION TO REVIVE PATENT APPLICATION  
UNAVOIDABLY ABANDONED UNDER 37 CFR 1.137(a)

Attention: Office of Petitions  
Mail Stop Petition  
Commissioner for Patents  
Post Office Box 1450  
Alexandria, Virginia 22313-1450

RECEIVED  
FEB 23 2005  
OFFICE OF PETITIONS

Sir:

1. On June 7, 2001, Douglas I. Lovison ("Petitioner") filed with the United States Patent and Trademark Office ("PTO") a nonprovisional patent application, designated application no. 09/877,577 (the "Application"), related to a hand grip exercise system.
2. According to PTO records, the PTO mailed an Office Action (the "Office Action") to the Petitioner's attorney of record, Neil K. Nydegger, on September 29, 2003. According to records received by Petitioner from Mr. Nydegger, Mr. Nydegger received the Office Action on October 2, 2003. At approximately the time of filing the Application, Mr. Nydegger had informed the Petitioner that the first Office Action related to the Application may not be received for two to two and one half years from the date of filing. Mr. Nydegger did not inform the Petitioner that Mr. Nydegger had received the Office Action or that the Office Action

02/18/2005 RNDDAF1 00000071 09877577

01 FC:2452 250.00 DP

02/18/2005 RNDDAF1 00000071 09877577  
01 FC:2452 -250.00 DP

had been mailed by the PTO or received by Mr. Nydegger. The Petitioner is not aware of any reply being filed to the Office Action. According to PTO records (Public PAIR), the Application was abandoned by the PTO on May 3, 2004 for Petitioner's failure to reply to the Office Action.

3. Sometime in June 2004, Mr. Nydegger ceased to represent the Petitioner in a number of matters for which he had been providing representation. One such matter involved prosecution of the Application before the PTO. At that time, Mr. Nydegger provided the Petitioner with a standard size file storage box, which was essentially completely filled with files related to various matters involving Mr. Nydegger's representation of the Petitioner. Mr. Nydegger's file related to the Application was among these materials, but the Petitioner was not aware of such fact at the time the Petitioner received the materials. Nor was the Petitioner informed by Mr. Nydegger of such fact. The Petitioner's relationship with Mr. Nydegger was at that time, and has continued to be, of a nature that continuing communication was not practical.

4. At approximately 1:45 p.m. (PDT) on January 10, 2005, the Petitioner placed a telephone call to the PTO to determine the status of the Application. The Petitioner spoke to Mr. Ervin Dinyer of the PTO. Mr. Dinyer informed the Petitioner during that telephone conversation that the Office Action had been issued and that the Application had been abandoned for failure to file a reply to the Office Action. This was the Petitioner's first notice that the Office Action had been issued, that no reply had been provided to the Office Action, and that the Application had been abandoned as a result of failure to file a reply to the Office Action.

5. On January 10, 2005, the Petitioner placed a telephone call to Mr. Kenneth P. Krohn, who has been substituted as the Petitioner's attorney with respect to matters involving the Application. On January 14, 2005, the Petitioner met with Mr. Krohn to discuss matters related to the Application.

6. Mr. Krohn has prepared an Amendment of Application and Reply to Office Action on behalf of the Petitioner, which accompanies this Petition and, *inter alia*, replies to the Office Action. The time elapsing from the initial meeting with the Petitioner until the filing of this Petition has been due to relocation of Mr. Krohn's office and the requirement to prepare and file an amendment to the Application and the reply to the Office Action with this Petition.

7. The entire delay in filing the required reply from the due date for the reply to the Office Action until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable.

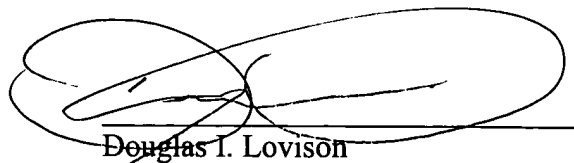
8. The following are enclosed with this Petition:

- (a) An Amendment of Application and Reply to Office Action in response to the Office Action;
- (b) One sheet of amended drawings (FIG. 1 and FIG. 2);
- (c) A Supplemental Declaration, Power of Attorney, and Petition;
- (d) A Summary of Fees;
- (e) Application fees in the amount of \$100, which are based upon small entity status, as set forth in the Summary of Fees; and
- (f) The petition fee under 37 C.F.R. 1.17(1) in the amount of \$250, which is based upon small entity status.

9. Petitioner hereby respectfully petitions for revival of the Application.

Dated: February 15, 2005

Respectfully submitted,



Douglas I. Lovison

2131 PALOMAR AIRPORT ROAD  
SUITE 320  
POST OFFICE BOX 4415  
CARLSBAD, CALIFORNIA 92018  
TELEPHONE: 760.431.5700  
TOLL FREE: 888.703.5700  
FACSIMILE: 760.431.5749

LAW OFFICE OF  
**KENNETH P. KROHN**



REGISTERED PATENT ATTORNEY  
STATE BAR OF CALIFORNIA  
STATE BAR OF ARIZONA  
ROLE OF SOLICITORS:  
ENGLAND AND WALES

WWW.KPKROHNLA.W.COM



February 16, 2005

File No.: 189.11

VIA U.S. EXPRESS MAIL (ED 448670323 US)

Attention: Office of Petitions  
Mail Stop Petition  
Commissioner for Patents  
Post Office Box 1450  
Alexandria, Virginia 22313-1450

Re: Petition to Revive  
Application No.: 09/877,577  
Inventor: Douglas I. Lovison  
Filing Date: June 7, 2001

Dear Sir:

Enclosed is a *Petition to Revive Nonprovisional Application Abandoned Unavoidably Under 37 CFR 1.137(a)*, and an *Amendment of Application and Reply to Office Action*, among other documents, which are filed on behalf of Douglas I. Lovison. Also enclosed is our check no. 1530 in the amount of \$350.00, which covers the fees set forth in the enclosed *Summary of Fees*. Please note that a self addressed, postage paid post card is enclosed. Please date stamp and return the post card to the undersigned.

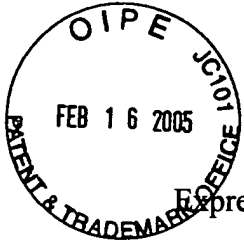
If you require additional information regarding this petition, it is respectfully requested that the undersigned be contacted so that such information can be provided.

Very truly yours,

Kenneth P. Krohn  
Registration No. 51,901

enclosures

cc: — Douglas I. Lovison —




## EXPRESS MAIL CERTIFICATE

Express Mail Label No.: ED 448670323 US

Date of Deposit: February 16, 2005

I hereby certify that the following documents are being deposited in a single envelope with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. § 1.10 on the date indicated above and such envelope is addressed to: Attention: Office of Petitions, Mail Stop Petition, Commissioner for Patents, Post Office Box 1450, Alexandria, Virginia 22313-1450:

Cover Letter dated February 16, 2005, to the USPTO  
Petition to Revive Patent Application Unavoidably Abandoned Under 37 CFR 1.137(a)  
Amendment of Application and Reply to Office Action  
Drawings (one sheet with FIG. 1 and FIG. 2)  
Supplemental Declaration, Power of Attorney, and Petition  
Summary of Fees  
Return Receipt Postcard  
Express Mail Certificate  
Check No. 1530 in the amount of \$350.00 payable to the USPTO

  
Kenneth P. Krohn